

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BERNARD S. LEVI,

Petitioner

v.

RONNIE HOLT,

Respondent

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CIVIL NO. 1:CV-05-1533

(Judge Rambo)

(Magistrate Judge Blewitt)

MEMORANDUM AND ORDER

Before the court is a motion for recusal of the undersigned judge brought pursuant to 28 U.S.C. § 455. The motion does not state whether recusal is sought pursuant to sub section (a) or (b). The motion is not supported by a brief as required by Middle District Local Rule 7.5. Pursuant to that local rule, the court can deem the motion withdrawn. The court, however, chooses to address the motion on the merits.

Plaintiff alleges that the undersigned is “biased and prejudiced against Petitioner” in adversely ruling on Petitioner’s motions. Thus, the court will address the motion as falling under subsection (a) of 28 U.S.C. § 455.

Under subsection 455(a), a judge should apply an objective standard in determining whether to recuse. The statute requires recusal in any case “in which his impartiality might reasonably be questioned.” (28 U.S.C. § 455(a).) In *Liteky v. United States*, 510 U.S. 540 (1994), the Court stated that

opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.

Id. at 555. In *Byrne v. Nezbart*, 261 F.3d 1075, 1103 (11th Cir. 2001), the court held that “adverse rulings alone do not provide a party with a basis for holding that the court’s impartiality is in doubt.”

Petitioner has not cited anything but a couple of adverse rulings which is insufficient to support a recusal. **IT IS THEREFORE ORDERED THAT** the motion for recusal is **DENIED**.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: December 6, 2005.